

REMARKS

Claims 1-10 currently appear in this application. The Office Action of June 26, 2007, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicant respectfully requests favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Election/Restriction

It is noted that when the base compound claims become allowable, the Examiner will evaluate rejoining of the process claims.

Are Rejections

Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alvaro et al, WO 03/066589. The Examiner concedes that Alvaro does not teach compounds wherein R^2 and R^3 are both alkyl groups, but states that it would have been obvious to replace hydrogen with lower alkyl groups with a reasonable expectation of success.

This rejection is respectfully traversed. The claimed compounds have unpredictable and extremely beneficial effects in that these compounds have no phospholipidosis-inducing potential and therefore have a small likelihood of

leading to development of toxicity. The herein claimed compounds are much safer than those of Alvaro et al.

To demonstrate the differences between the claimed compounds and those of Alvaro, one of the inventors, Mr. Suich Towa, who evaluated the toxicity of the compounds during the research conducted from this application, conducted an experiment in which he compared the herein claimed compounds with those of Alvaro. To determine toxicity, the phospholipidosis-inducing potential of the claimed compounds and that of the Alvaro compounds were measured and compared.

The results are shown in the table in the declaration of Mr. TOWA, submitted herewith. As can be seen from this table, the herein claimed compounds have no phospholipidosis-inducing potential, while the compounds of Alvaro have this phospholipidosis-inducing potential.

Accordingly, as described on page 20, lines 15-18 of the present specification, since the herein claimed compounds have no phospholipidosis-inducing potential, they are much less likely than the compounds of Alvaro to be toxic, and thus to be safer than the Alvaro compounds. This safety of the herein claimed compounds is an extremely beneficial property for compounds used as drugs.

Based upon the comparison of the claimed compounds and the Alvaro compounds, it is respectfully submitted that

the herein claimed compounds are not obvious over the compounds of Alvaro.

Rejections under 35 U.S.C. 112

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, because the specification is said not to reasonably provide enablement for the wide variety of structures encompassed by formula I.

This rejection is respectfully traversed. Claim 1 has now been amended according to the Examiner's helpful suggestion on page 4 of the Office Action. The substituents have been limited to $Z=N(R^3)-$, $R^3=R^{4a}=R^{4b}=CH_3$, AND $R^2=H$.

Allowable Subject Matter

It is noted that claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As it is believed that claim 1 is now allowable, there is no requirement to rewrite claims 2-7.

Verification of Translation

Applicants have found a mistranslation and missing part on page 20 of the present English-language specification which was inadvertently caused when the Japanese language text of the PCT application, No. PCT/JP2004/017543 was translated

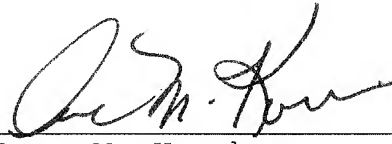
into English. The missing part corresponds to the part describing that the compounds of the present invention have no phospholipidosis-inducing potential,

Submitted herewith is a Verification of Translation of the Japanese document to the correct English.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By: 
Anne M. Kornbau
Registration No. 25,884

AMK:srd
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\T\tsuk\Takahashi38\Pto\2007-12-26Amendment.doc